

however, representation from the Troubled Agency Recovery Center). For purposes of reassessment, REAC will schedule a reinspection and/or acquire audit services, as determined by the Board, and a new score will be issued, if appropriate. Decisions by the Board will be reported to the PHA by the Assistant Secretary for Public and Indian Housing.

(e) *Final appeal decisions.* HUD will make final decisions of appeals, made under this section, within 30 days of receipt of an appeal, and may extend this period for an additional 30 days if further inquiry is necessary. Failure by a PHA to submit supporting documentation with its request for appeal, or within any additional period granted by HUD is grounds for denial of an appeal. Final appeal decisions will be reported to the PHA by the Assistant Secretary for Public and Indian Housing.

[65 FR 36045, June 6, 2000]

## Subpart G—PHAS Incentives and Remedies

### § 902.71 Incentives for high performers.

(a) *Incentives for high performer PHAs.* A PHA that is designated a high performer will be eligible for the following incentives, and such other incentives that HUD may determine appropriate and permissible under program statutes or regulations:

(1) *Relief from specific HUD requirements.* (i) A PHA that is designated high performer will be relieved of specific HUD requirements (for example, fewer reviews and less monitoring), effective upon notification of high performer designation.

(ii) The development or developments of a PHA that receives a physical condition score of 90 percent or greater under PHAS Indicator #1 shall be subject to a physical inspection every other year rather than annually. (All developments of the high performer PHA are subject to inspection every other year, not only those inspected for which the physical condition score of 90 percent or greater was achieved.)

(2) *Public recognition.* High performer PHAs and RMCs that receive a score of

at least 60 percent of the points available under each of the four PHAS Indicators and achieve an overall PHAS score of 90, will receive a Certificate of Commendation from HUD as well as special public recognition, as provided by the HUB/Program Center.

(3) *Bonus points in funding competitions.* A high performer PHA will be eligible for bonus points in HUD's funding competitions, where such bonus points are not restricted by statute or regulation governing the funding program. Where permissible by statute or regulation, eligibility for high performers to receive bonus points in HUD's funding competitions, will be stated in HUD's notices of funding availability or other funding documents.

(b) *Compliance with applicable Federal laws and regulations.* Relief from any standard procedural requirement that may be provided under this section does not mean that a PHA is relieved from compliance with the provisions of Federal law and regulations or other handbook requirements. For example, although a high performer or standard performer may be relieved of requirements for prior HUD approval for certain types of contracts for services, the PHA must still comply with all other Federal and State requirements that remain in effect, such as those for competitive bidding or competitive negotiation (see 24 CFR 85.36).

(c) *Audits and reviews not relieved by designation.* A PHA designated as a high performer or standard performer remains subject to:

(1) Regular independent auditor (IA) audits.

(2) Office of Inspector General (OIG) audits or investigations will continue to be conducted as circumstances may warrant.

### § 902.73 Referral to an Area HUB/Program Center.

(a) Standard performers will be referred to the HUB/Program Center for appropriate action.

(1) A standard performer that receives a total score of less than 70 percent but not less than 60 percent shall be required to submit an Improvement Plan to eliminate deficiencies in the PHA's performance.

(2) A standard performer that receives a score of not less than 70 percent may be required, at the discretion of the appropriate area HUB/Program Center, to submit an Improvement Plan to address specific deficiencies.

(b) *Submission of an Improvement Plan.*

(1) Within 30 days after the final PHAS score is issued, a standard performer with a score of less than 70 percent is required to submit an Improvement Plan to the HUB/Program Center in accordance with paragraphs (d) and (e) of this section.

(2) An RMC, unless a DF-RMC, that is required to submit an Improvement Plan must develop the plan in consultation with its PHA and submit the plan to the HUB/Program Center through its PHA. A DF-RMC that is required to submit an Improvement Plan, also must develop its plan in consultation with its PHA, but must submit its plan directly to the HUB/Program Center.

(3) On a risk management basis, the HUB/Program Center may require a standard performer with a score of not less than 70 percent to submit within 30 days after receipt of its final PHAS score an Improvement Plan, which includes the information stated in paragraph (d) of this section.

(c) *Correction of deficiencies.* (1) *Time period for correction.* After a PHA's (or DF-RMC's) receipt of its PHAS score and designation as a standard performer or, in the case of an RMC, notification of its score from a PHA, a PHA or RMC shall correct any deficiency indicated in its assessment within 90 days, or within such period as provided in the HUD approved Improvement Plan if an Improvement Plan is required.

(2) *Notification and report to HUB/Program Center.* A PHA shall notify the HUB/Program Center of its action to correct a deficiency. A PHA shall also forward to the HUB/Program Center an RMC's report of its action to correct a deficiency. A DF-RMC shall forward directly to the HUB/Program Center its report of its action to correct a deficiency.

(d) *Improvement Plan.* An Improvement Plan shall:

(1) Identify baseline data, which should be raw data but may be the

PHA's score for each individual PHAS indicator, sub-indicator and/or component that was identified as a deficiency;

(2) Identify any other performance and/or compliance deficiencies that were identified as a result of an on-site review of the PHA's operations;

(3) Describe the procedures that will be followed to correct each deficiency;

(4) Provide a timetable for the correction of each deficiency; and

(5) Provide for or facilitate technical assistance to the PHA.

(e) *Determination of acceptability of Improvement Plan*

(1) The HUB/Program Center will approve or deny a PHA's Improvement Plan (or RMC's Improvement Plan submitted to the HUB/Program Center through the RMC's PHA, or the DF-RMC's Improvement Plan submitted directly to the HUB/Program Center), and notify the PHA of its decision. A PHA that submits an RMC's Improvement Plan must notify the RMC in writing, immediately upon receipt of the HUB/Program Center notification, of the HUB/Program Center approval or denial of the RMC's Improvement Plan.

(2) An Improvement Plan that is not approved will be returned to the PHA with recommendations from the HUB/Program Center for revising the Improvement Plan to obtain approval.

(f) *Submission of revised Improvement Plan.* A revised Improvement Plan shall be resubmitted by the PHA within 30 calendar days of its receipt of the HUB/Program Center recommendations.

(g) *Failure to submit acceptable Improvement Plan or correct deficiencies.* (1) If a PHA fails to submit an acceptable Improvement Plan, or to correct deficiencies within the time specified in an Improvement Plan or such extensions as may be granted by HUD, the HUB/Program Center will notify the PHA of its noncompliance.

(2) The PHA (or DF-RMC or the RMC through the PHA) will provide the HUB/Program Center its reasons for lack of progress in submitting or carrying out the Improvement Plan within 30 calendar days of its receipt of the noncompliance notification. HUD will advise the PHA as to the acceptability of its reasons for lack of progress.

(3) If HUD finds the PHA's reasons for lack of progress unacceptable, HUD will notify the PHA that it will be referred to the area Troubled Agency Recovery Center (TARC) for remedial actions or such actions as the TARC may determine appropriate in accordance with the provisions of the ACC, this part and other HUD regulations, including the remedies available for substantial default.

(4) In the case of a PHA's failure to correct deficiencies within the time specified in an Improvement Plan or such extensions as may be granted by HUD, if the TARC determines that it is appropriate to refer the PHA to the Departmental Enforcement Center (DEC), it will only do so after the PHA has had one year since the issuance of the PHAS score (or, in the case of an RMC, that is not a DF-RMC, notification of its score from a PHA) to correct its deficiencies.

**§ 902.75 Referral to a Troubled Agency Recovery Center (TARC).**

(a) *General.* Upon a PHA's designation of troubled (including troubled in one area), in accordance with the requirements of section 6(j)(2)(B) of the Act and in accordance with this part (or part 901, of this chapter if applicable), REAC shall refer each troubled PHA to the PHA's area TARC for remedial action. Remedial action by the TARC may include referral to the HUB/Program Center for oversight and monitoring. The actions to be taken by HUD and the PHA will include actions statutorily required, and such other actions as may be determined appropriate by HUD.

(b) *Memorandum of Agreement (MOA).* Within 30 days of notification of a PHA's designation as a troubled performer (including substandard categorization), HUD will initiate activities to develop a MOA. The final MOA is a binding contractual agreement between HUD and a PHA. The scope of the MOA may vary depending upon the extent of the problems present in the PHA, but shall include:

(1) Baseline data, which should be raw data but may be the PHA's score in each of the PHAS indicators, sub-indicators or components identified as a deficiency;

(2) Performance targets for such periods specified by HUD (*e.g.*, annual, semi-annual, quarterly, monthly), which may be the attainment of a higher score within an indicator, sub-indicator or component that is a problem, or the description of a goal to be achieved;

(3) Strategies to be used by the PHA in achieving the performance targets within the time period of the MOA;

(4) Technical assistance to the PHA provided or facilitated by HUD, for example, the training of PHA employees in specific management areas or assistance in the resolution of outstanding HUD monitoring findings;

(5) The PHA's commitment to take all actions within its control to achieve the targets;

(6) Incentives for meeting such targets, such as the removal of troubled designation or troubled with respect to the program for assistance from the Capital Fund under section 9(d) and Departmental recognition for the most improved PHAs;

(7) The consequences of failing to meet the targets include but are not limited to, such sanctions as the imposition of budget and management controls by HUD, declaration of substantial default and subsequent actions, including referral to the DEC for judicial appointment of a receiver, limited denial of participation, suspension, debarment, or other actions deemed appropriate by the DEC; and

(8) A description of the involvement of local public and private entities, including PHA resident leaders, in carrying out the agreement and rectifying the PHA's problems. A PHA shall have primary responsibility for obtaining active local public and private entity participation, including the involvement of public housing resident leaders, in assisting PHA improvement efforts. Local public and private entity participation should be premised upon the participant's knowledge of the PHA, ability to contribute technical expertise with regard to the PHA's specific problem areas and authority to make preliminary/tentative commitments of support, financial or otherwise.